
By: **Delegates O'Donnell, Amedori, Barkley, Boschert, Boteler, Boutin, Bronrott, Burns, G. Clagett, Cluster, Costa, Cryor, Dumais, Dwyer, Feldman, Gilleland, Goldwater, Gutierrez, Haddaway, Hogan, Jennings, Krebs, Lee, McComas, McConkey, McKee, McMillan, Menes, Miller, Myers, Petzold, Quinter, Shank, Sophocleus, Sossi, F. Turner, and Weldon**

Introduced and read first time: February 13, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offenders - Penalties**

3 FOR the purpose of expanding the types of alcohol- and drug-related driving offenses
4 for which persons convicted of certain subsequent offenses are subject to certain
5 mandatory minimum periods of imprisonment under certain circumstances;
6 altering the circumstances in which home detention is included in the meaning
7 of "imprisonment" for the purpose of certain subsequent offender penalties;
8 requiring a court to order a person convicted of certain subsequent alcohol- and
9 drug-related driving offenses to undergo an alcohol or drug abuse assessment
10 and to participate in a certain alcohol or drug abuse program under certain
11 circumstances; and generally relating to certain penalties for a person convicted
12 of certain subsequent alcohol- and drug-related driving offenses under certain
13 circumstances.

14 BY repealing and reenacting, without amendments,
15 Article - Transportation
16 Section 21-902
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Transportation
21 Section 27-101(j)
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2003 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Transportation**

2 21-902.

3 (a) (1) A person may not drive or attempt to drive any vehicle while under
4 the influence of alcohol.

5 (2) A person may not drive or attempt to drive any vehicle while the
6 person is under the influence of alcohol per se.

7 (b) A person may not drive or attempt to drive any vehicle while impaired by
8 alcohol.

9 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
10 far impaired by any drug, any combination of drugs, or a combination of one or more
11 drugs and alcohol that he cannot drive a vehicle safely.

12 (2) It is not a defense to any charge of violating this subsection that the
13 person charged is or was entitled under the laws of this State to use the drug,
14 combination of drugs, or combination of one or more drugs and alcohol, unless the
15 person was unaware that the drug or combination would make the person incapable
16 of safely driving a vehicle.

17 (d) A person may not drive or attempt to drive any vehicle while the person is
18 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of
19 the Criminal Law Article, if the person is not entitled to use the controlled dangerous
20 substance under the laws of this State.

21 (e) For purposes of the application of subsequent offender penalties under §
22 27-101 of this article, a conviction for a crime committed in another state or federal
23 jurisdiction that, if committed in this State, would constitute a violation of subsection
24 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b),
25 (c), or (d) of this section.

26 27-101.

27 (j) (1) In this subsection, "imprisonment" includes confinement in:

28 (i) An inpatient rehabilitation or treatment center; or

29 (ii) Home detention that includes electronic monitoring for the
30 purpose of participating in an alcohol OR DRUG treatment program that is:

31 1. Certified by the Department of Health and Mental
32 Hygiene;

33 2. Certified by an agency in an adjacent state that has
34 powers and duties similar to the Department of Health and Mental Hygiene; or

35 3. Approved by the court.

1 (2) A person who is convicted of a violation of [§ 21-902(a)] § 21-902 of
2 this article within 5 years after a prior conviction under that [subsection] SECTION is
3 subject to a mandatory minimum penalty of imprisonment for not less than 5 days.

4 (3) A person who is convicted of a third or subsequent offense under [§
5 21-902(a)] § 21-902 of this article within 5 years is subject to a mandatory minimum
6 penalty of imprisonment for not less than 10 days.

7 (4) A person who is convicted of an offense under [§ 21-902(a)] § 21-902
8 of this article within 5 years of a prior conviction of any offense under that
9 [subsection] SECTION shall be required by the court to:

10 (i) Undergo a comprehensive alcohol OR DRUG abuse assessment;
11 and

12 (ii) If recommended at the conclusion of the assessment, participate
13 in an alcohol OR DRUG ABUSE program as ordered by the court that is:

14 1. Certified by the Department of Health and Mental
15 Hygiene;

16 2. Certified by an agency in an adjacent state that has
17 powers and duties similar to the Department of Health and Mental Hygiene; or

18 3. Approved by the court.

19 (5) The penalties provided by this subsection are mandatory and are not
20 subject to suspension or probation.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2004.